IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 67 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
JANUARY 18, 2007.

Heard Shri Palshikar, learned counsel for the petitioner – judgment debtor and Shri Sambre, learned counsel for respondents No. 1 & 3 – auction purchasers.

The learned counsel for the petitioner argues that the property proceeded against is not covered by 1969 decree. He further states that the objections raised by the petitioner pointing out this to Executing Court are still pending and there was understanding between the Executing Court and petitioners that sale certificate will not be issued until and unless those objections are decided. He contends that the petitioner has deposited entire decretal amount and hence the Executing Court should be called upon to decide those objections. He contends that action of Executing Court in issuing sale certificate

without deciding said objections is unsustainable.

Shri Sambre, learned counsel points out that sale certificate has been ordered to be issued in October 2000. He states that due to subsequent events that has become infructuous. He further argues that the decree passed in 1969 was for enquiry under Order 20, Rule 12 of Civil Procedure Code and after holding that enquiry, for recovery of amount found due, property has been auctioned. He states that there is no substance in the petition.

It is apparent that by the impugned order dated 6.10.2000 as passed under Order 21, Rule 94 of C.P.C., it is further apparent that when property was proposed to be auctioned and when auction was announced, the petitioner might have raised various objections. Admittedly, auction sale is already confirmed. In such circumstances, contention that all objections are still pending and Court below has proceeded to issue sale certificate cannot be accepted in the back ground of argument of the petitioner that there was understanding between the Court and the

petitioner that until and unless those objections are decided, sale certificate would not be issued. The argument is contrary to scheme of provisions of Order 21 itself.

The fact that after 6.10.2000, the revision was pending before this Court and revision was thereafter found not to be untenable in view of the amendment to provisions of Civil Procedure Code and therefore this writ petition has been filed and therefore irrelevant.

In the circumstances, no case is made out for interference. Writ Petition is dismissed. No order as to costs.

JUDGE

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